

November 19, 2004

United States Court of Appeals
Attn: Clerk of Court
2500 John J. Moakley Courthouse.
One Courthouse Way
Boston, Massachusetts 02210

Companion case in the U.S.
District Court is 04-11430-RCL.
F.Y.I. this letter was sent to
the U.S. Court of Appeals for
the reasons set out within
pertaining to the U.S. District
Court and the enlargement of time
sought by AUSA Sady which is
not opposed up to and
including 12/31/04. After
12/30/04 all enlargements
will be opposed.

RE: In Re Tyree, 04-2164.

Dear clerk,

I had previously requested that a stay of proceedings take effect until November 15, 2004. I did that to facilitate the AUSA (Michael P. Sady), who had requested, and received an enlargement of time to file an answer to the Civil Action in the United States District Court, (USDC), at C.A. No. 04-11430-RCL. That enlargement was up to and including November 15, 2004.

On November 15, 2004, AUSA Sady filed the enclosed Motion For An Enlargement of Time up to and including December 31, 2004. He cited that this case stemmed from a 25 year old murder and his inability to read a very simple complaint. I might add that seven other attorneys have read the Civil Action at No. 04-11430-RCL, and had no problem understanding it.

Nevertheless, AUSA Sady who is also counsel for the United States Government in the matter of In Re Tyree, 04-2164 as well, has requested another enlargement of time. I would point out that I have shown through exhibits attached to the Petition For Mandamus, that the U.S. Army, (USA), and Secretary of the Army, (SOTA), were served and put on notice of the problems in this case as early as June 2003, when I first became aware of the issues involved in this case which serve as the basis for the Petition for the Writ of Mandamus. Now here we are nearly 17 months later and the U.S. government through AUSA Sady are claiming that they need additional time to answer the case in the USDC; while at the sametime, AUSA Sady is delaying the Writ of Mandamus in this U.S. Court of Appeals.

Needless to say, the Defendants were served in the USDC case at No. 04-11430-RCL in July 2004, and now in november 2004, five months later, we are no closer to getting the USA to explain

Page two

the problems set out within the Civil Action at USDC No. 04-11430-RCL, or in the Writ of Mandamus in the case of In Re Tyree, 04-2164.

I will not oppose the enlargement of time sought by AUSA Sady in the USDC at 04-11430-RCL, (which will continue this case up to and including December 31, 2004), but any additional enlargement of time will be objected to and challenged through Motion and complaint to the Bar of Board Overseers for wasting judicial resources/time. (I'm sorry but I know that the very materials that AUSA Sady is attempting to find are in the custody of the USA who do not want those very documents made known. I will not be held hostage by AUSA Sady who is being denied USA Records that he needs to answer the Civil Action in the USDC at No. 04-11430-RCL because the SOTA is fearful that he will lose this court battle. Further, I have been litigating matters for 23 years and have never had a problem clearly writing a complaint: according to AUSA Sady he does not understand what the Civil Action complaint in the USDC at No. 04-11430-RCL is alleging. Perhaps AUSA Sady should do what **Local Rule 7.1(A)(2)** requires and simply call "MCI-Walpole" and speak to me directly. That is what all the other attorneys do!).

Ironically the USA corrected my military record as recent as May 1999, and at that time, the entire USA 201 Personnel Record was in the custody of the USA Adjutant General (Kathryn Frost). If AUSA Sady is having problems locating the very documents he needs to answer the complaint in the USDC at 04-11430-RCL, then AUSA Sady should contact the USA Adjutant General and ask them where the 201 Personnel Record is at.

Until December 31, 2004, I would ask this United States Court of Appeals to further stay the proceedings in order to give AUSA Sady "a" chance to file something that resembles an answer to the Complaint in the USDC (No. 04-11430-RCL). I suspect that his answer in the USDC will greatly impact the Petition for Writ of Mandamus in the case of In Re Tyree, 04-2164. I will file a Motion To Vacate the Stay of Proceedings the first week of January 2005, and will also file a Motion for Judgment on the Petition for Writ of Mandamus pending at 04-2164. I believe that six months (in addition to the 12 months previous when I first notified the SOTA in June 2003), is sufficient time for the USA, the SOTA, and AUSA Sady to formulate an answer of some kind in this case. That is 18 months as of December 31, 2004.

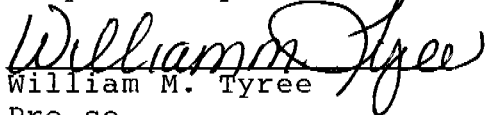
Thank you for your time in this matter. Again I would humbly point out that if the relevant agency in this case, the USA, is not of

Page three

a mind to cooperate with AUSA Sady, then the USA could drag this case (In Re Tyree 04-2164, and Tyree v. USA, ET AL., 04-11430-RCL) out for another 30 years. I have no intention of allowing that to happen. I have finally proven that the date of my arrest on February 13, 1979, at the hands of the USA was wrong, and the Massachusetts Supreme Judicial Court even found the true date of my arrest to be February 14, 1979, see Commonwealth v. Tyree, 387 Mass. 191, 203-204 (1982). That proves lack of subject matter jurisdiction of the state judiciary and requires my reinstatement in the USA. The Army is aware that they have been discovered and now the USA seeks to drag their feet and deny me justice.

In closing I would also point out to AUSA Sady that I will be prejudiced by extensions of time. As cited directly above, I have the SJC decision that proves my true date of arrest (with probable cause) occurred on 2/14/79, as such the USA had no right (or probable cause) to arrest me on 2/13/79. I have been incarcerated 26 years as of 2/13/05. I'd like to see AUSA Sady spend one day in prison and until he does, I don't want him to tell me that 45 more days (from 11/15/04 to 12/31/04) won't prejudice me. I also don't want to hear AUSA Sady tell the court that he cannot conference with me on motions. Other AUSA's have done it by phone, why can't AUSA Sady?

Respectfully submitted,


William M. Tyree

Pro se

P.O. Box-100

S. Walpole, MA. 02071

cc: USDC, 04-11430-RCL
AUSA Sady
file